MADRAS REGULATION IX OF 1822.[1]

[THE MADRAS REVENUE MALVERSATION REGULATION, 1822.]

[*20th December 1822.*]

A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs; for prescribing the rules to be observed in such investigations, and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collectors' jurisdictions; and for providing for the admission and trial of appeals from the summary decisions of Collectors in such cases.

Preamble.

WHEREAS it is necessary to the security of the revenues of Government and to the welfare of the people, that Collectors should be empowered to make summary inquiry and decision in cases in which it may come to their knowledge that the public servants under their superintendence, or the officers of the village establishments, or any other persons in their behalf, or on any assumed or pretended authority, have embezzled the public money, or made unauthorized collections, or received bribes, or extorted money or other valuable consideration, and that Collectors should have power to enforce the judgments they may pass in such cases; and whereas the trial of appeals from such judgments cannot always be made with the necessary expedition, nor without public inconvenience by the regular Courts, and it is therefore expedient to provide that in certain cases Commissioners may be appointed to try such appeals [2] * * *; the Honourable the Governor in Council has therefore enacted the following rules [3] * * * *

[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] Certain words, which are now obsolete, have been repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[3] Certain obsolete words have been repealed by Central Act XII of 1876, s. 1.

Collectors authorized to take primary cognizance of cases of malversation in revenue affairs.

2. *First.*—Collectors of the land-revenue are hereby authorized to take primary cognizance of all cases in which persons of any of the several descriptions hereinafter specified shall be accused or suspected of having wilfully committed, or allowed to be committed, any of the acts of malversation particularized in clause second of this section; and, on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this Regulation the said Collectors are authorized to adjudge.

Specification of offences cognizable.

Second.—The several classes of the offences cognizable by Collectors under this Regulation are declared to be as follows, namely:—

Exacting or corruptly receiving money, etc., for performance of official acts.

1*st*, exacting or corruptly receiving, either directly or through the means or agency of any other person, any money or other valuable consideration for doing or procuring to be done any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence, of obtaining or securing some undue gain, benefit or advantage to the giver of such money or other valuable consideration;

Levying extra collections.

2*nd*, levying extra and unauthorized cesses or extra collections of any kind not sanctioned by the Regulations nor by the orders of Government, and intended for the private and personal use and profit of the persons levying or causing the same to be levied;

Embezzling public money.

3*rd*,[1] embezzling or fraudulently misappropriating the public money;

Making false entries in public accounts.

4*th*, making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money in any of the departments under the Collector's superintendence, or concerning the extent, value, classification or assessment of land;

Falsifying, destroying, etc., public accounts.

5*th*,[1] knowingly and wilfully falsifying, destroying or concealing public accounts, or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money.

Persons subject to Collector's authority under Regulation.

Third.—The classes or descriptions of persons in regard to whom the Collectors shall have authority to exercise the powers of summary investigation, decision and punishment granted to them by this Regulation are declared to be as follows, namely:—

1*st*, all the [2][ ] servants of the Collector's public establishments;

2*nd*, all head inhabitants, karnams and their gumastás, or persons doing the duty for them, and all other village officers and servants within their respective collectorates;

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[1] Extended to other public property by Central Act XXXVI of 1837.
[2] The word "Native" was omitted by the Adaptation Order of 1950.

3*rd*, all persons not on the public establishment, whether being in the private service of a Collector, Sub-Collector or Assistant to a Collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority or on behalf of revenue-servants or village-officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or receive money as public revenue, or as for revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration shall have been taken.

Collectors empowered to summon witnesses and to require production of documents.

3. *First.*—Collectors shall have power to summon before them as witnesses all persons whose evidence may appear necessary to the due investigation of the cases referred to in this Regulation as well for as against the accused or suspected persons, and to require the production of documentary evidence. The summonses to be issued by Collectors for this purpose shall bear their official seal and signature, and shall specify the time and place of the witnesses' attendance; and, if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be to bring such documents along with them.

Second.—[*Procedure on refusal of witness to attend or give evidence.*] *Rep., Mad. Act II of* 1869.

Witnesses residing in other zilas to be examined by Judge of zila in which they reside.

Third.—If any witness whose evidence is required by a Collector shall reside out of the jurisdiction of the zila to which the Collector is amenable, the Collector shall transmit written interrogatories to the Judge of the zila in whose jurisdiction the witness may reside, who shall procure, the written answers of the witness to such interrogatories,[1] * * * and shall return the same to the Collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule, whether on behalf of the Government or of the accused, the opposite party shall have the right of transmitting cross-interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

Cross-interrogatories.

Investigations under this Regulation to be summary.

4. The investigations which Collectors are authorized to make under this Regulation shall be summary [1] * * * . All documents produced in evidence shall be endorsed by the Collector with his signature or initials, and marked with the date of their production. A summary of the defence shall be recorded and the decision of the Collector, with a brief

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

Rules of procedure.

statement of the grounds on which it is formed, shall be entered on the proceedings. [1]

Sentence which Collectors may pass on persons convicted of certain offences.

5. [2]*First.*—When persons of any of the descriptions mentioned in clause third, section 2 of this Regulation, shall be convicted before a Collector, or an inquiry conducted under this Regulation, of any of the offences of the first, second or third class specified in clause second of that section, the Collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled or misappropriated.

Convicted persons to be kept in custody until judgment has been satisfied.

Second.—After a judgment has been passed by a Collector for the payment of money under the foregoing clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first, in the Collector's kacharí, and afterwards, if necessary, in the zila jail as hereinafter provided.

Judgments of Collectors how executed.

Third.—The judgments of Collectors for the recovery of money under the preceding clause shall be executed in the same manner as decrees of the Courts of Adalat, by a warrant under the official seal and signature of the Collector, which shall specify the name of the person against whom the judgment has passed, the date of the judgment on the Collector's proceedings, and the amount to be levied. In the execution of this warrant the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the Collector, or, if not moveable, a full report thereof shall be made to the Collector who will hold a summary inquiry on the claim preferred, or refer such inquiry to a Panchayat. If the property be proved to belong *bona fide* to the defaulter, a particular account of its nature and value shall be entered on the Collector's proceedings, after which he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

Persons convicted of certain other offences how punishable.

Fourth.—When any of the before-mentioned persons shall be convicted of any of the offences of the fourth or fifth class specified in clause second, section 2 of this Regulation, the Collector shall impose such fine, not exceeding five hundred rupees, as may appear reasonable; and, in default of payment of such fine, he shall further sentence the offender to imprisonment for a period not exceeding twelve months, or until the said fine shall have been paid.

[1] As to powers of Board of Revenue, *see* Mad. Reg. III of 1823, s. 2, cl. 2.

[2] As to appeals from orders under this section and s. 6, *see* Mad. Reg. VII of 1828, s. 6.

When Collectors shall make specific demand.

6. In cases where no examination of witnesses may be necessary—as where money actually delivered in charge to a public servant has been embezzled, or is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the kachari —Collectors shall make in writing a demand of the specific amount due by such public servant, and, on his refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and, if necessary, by imprisonment of the defaulter's person, in the same manner as for the recovery of arrears of revenue.

Further procedure in such cases.

When Collectors may call on suspected persons to give security for fulfilment of judgment.

7. Whenever a Collector shall be about to institute an inquiry under this Regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal or collusively transfer, his property, for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the Collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to provide for the fulfilment of the judgment that may be eventually passed; and, in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry.

Procedure when security is not given.

The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person, wherever or in whose possession soever it may be found.

In the event of property seized under this section being claimed by any other person, the Collector shall proceed as directed in like cases in clause third, section 5 of this Regulation.

When Collector may issue proclamation requiring property of defaulters to be surrendered.

8. In all cases where an accused or suspected person has refused or neglected to deposit security, according to the Collector's requisition, as provided in section 7, and in all cases where a judgment has passed under the provisions of clause first, section 5 of this Regulation, as well as where a defaulter has failed to satisfy the public demand against him, made under the provisions of section 6 of this Regulation, it shall be competent to a Collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted [1] * * of having fraudulently concealed or collusively received such property shall be sentenced [1] * * to pay a fine not exceeding three times the amount

Punishment for concealing such property.

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid.

The Criminal Judge shall levy the amount of the fine by the usual process, and in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the zila jail; provided, however, that the period of confinement under this section shall in no case exceed twelve calendar months.

When Collectors may issue search-warrants for discovery of papers or accounts.

9. If information [1] * * shall be given before a Collector that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own official seal and signature, addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts.

Search-warrants how executed.

Search-warrants thus issued shall be executed between sunrise and sunset only, and, where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants shall be made out in duplicates on the spot; both copies shall be signed by the officer executing the warrant, and by the inhabitants or witnesses present; one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the Collector:

Provided, however, that nothing contained in these rules shall be construed to authorize any but female; to enter the zenana or apartments of the women in houses belonging to those classes whose women do not ordinarily appear in public.

Property how sold in satisfaction of judgments of Collectors.

10. Whenever it may be necessary to sell property in satisfaction of an order of judgment of the Collector under the provisions of this Regulation, the sale shall be conducted by the Tahsildár, or other public servant to whom the Collector may delegate that duty [1] * * *.

11. [*Judgment of Collector under s. 4 not to be executed till sanctioned by Board of Revenue.*] *Rep., Mad. Reg. III of* 1823.

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[1] Certain obsolete words have been repealed by Centra]Act XII of 1876.

Reimbursement of persons from whom money is unjustly received. Persons reporting exaction within two months to be repaid.

12. A discretionary authority shall be vested in Collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received the whole or such part of the sum recovered under the provisions of this Regulation as may appear proper on consideration of the circumstances of the case ; provided, moreover, that such persons shall be entitled in all cases to receive back whatever they may have so given to a public servant of Government, if they shall inform the Collector, Subordinate Collector or Assistant of such exaction or undue receipt of money within two months after its payment or delivery by the said informants.

Persons against whom inquiry is going on may be kept under restraint.

13. *First.*—Collectors are authorized to keep under restraint any persons against whom they may have instituted an inquiry under the provisions of this Regulation, either by placing peons over the dwelling-house of any such persons, to prevent their escape, or, if necessary, by confinement in the kacharí ; and, if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

When defaulters may be imprisoned.

Second.—In the event of no property of a person against whom an order or judgment has been passed under this Regulation being forthcoming, or not sufficient to pay the amount due by him, the Collector shall forward the defaulter or offender to the Zila Court, and shall at the same time furnish the Government vakil of the said Court with instructions to present a motion to the Judge for his confinement until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the Collector shall again move the Court for his release. The Zila Judge shall receive such motion whether in or out of Court, and shall order the confinement of the party accordingly, and the Judge shall not discharge him from confinement except on his paying the full amount mentioned in the Collector's motion, or on application from the Collector.

14. [*Appeals to Governor in Council.*] *Rep., Mad. Reg. VII of* 1828, *s.* 5.

[1] [**15.** * * * * * *]

Suits grounded on proceedings of Collector when receivable by Court.

[2] **16.** No suit grounded on the summary proceedings of a Collector under this Regulation, either in the form of an original complaint against such Collector, on account of any supposed injustice in conducting such proceedings, or of an appeal from his judgment, shall be received by any Court of Adalat, unless the plaint or petition is accompanied by the

[1] This section was omitted by s. 2 of the Madras Revenue (Miscellaneous Amendments) Act, 1936 (Madras Act VIII of 1936).

[2] The provisions of this section are supplemented by Mad. Reg. III of 1832, s. 2.

order referred to in *clause second, section* 14 *of this Regulation,* [1] remitting the party complaining to seek his redress in the Courts of Adalat.

17 & 18. [*Powers of Criminal Judges and Courts of Circuit.*] *Rep., Central Act XII of 1876.*

19. [*Repeal of Regulation XXXIII of 1802.*] *Rep., Mad. Act II of 1869.*

MADRAS REGULATION III OF 1823.[2]

[THE MADRAS REVENUE MALVERSATION (AMENDMENT) REGULATION, 1823.]

[*8th August 1823.*]

[3] A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.

Preamble.

WHEREAS the reference to the Board of Revenue required by section 11, Regulation IX of 1822, to be made by Collectors before any judgment passed by them under section 4 of that Regulation can be carried into execution, has been found inconvenient in practice and otherwise objectionable, and it is expedient that the said rule be rescinded, and that the Board of Revenue be vested with general power to suspend the execution of any judgment so passed which to them may seem improper; the Honourable the Governor in Council has been pleased to enact the following rules * * *.[4]

2. *First.*—[*Repeal of Regulation IX of 1822, section* 11.] *Rep., Mad. Act II of 1869.*

Collectors' reports of judgments passed by them under Regulation IX of 1822.

Second.—Collectors will transmit such periodical or occasional reports of judgments passed under section 4 of the above-quoted Regulation as the Board of Revenue may direct. And it shall be competent to the Board of Revenue, whenever they may see fit, to order that any such judgment be not carried into execution, and to pass such further order on the case as to them may seem equitable and just.

3. [*Powers of Assistant and Subordinate Collectors under Regulation IX of* 1822.] *Rep., Mad. Reg. VII of* 1828, *s.* 2.

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[1] For the words in italics now read "clause second, section 6 of Regulation VII of 1828" —*see* Mad. Reg. III of 1832, s. 2.

[2] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act—*see Fort St. George Gazette,* 1930, Pt. I, p. 1392.

[3] This title was substituted for the original title by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—s. 3 and the second schedule.

[4] Certain obsolete words have been repealed by Central Act XII of 1876.